

A G R E E M E N T

FOR CARRYING OUT NATIONAL POLICY RELATIVE TO CONTROL OF OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS AND THE FEDERAL-AID PRIMARY SYSTEM.

THIS AGREEMENT made and entered into this 2nd day of June, 1971, by and between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator, hereinafter referred to as the Administrator and the State of Idaho, represented by the Idaho Board of Highway Directors acting by and through its State Highway Engineer, E. L. Mathes, hereinafter referred to as the State. Witnesseth:

WHEREAS, Congress has declared that outdoor advertising in areas adjacent to the Interstate and Federal-aid Primary Systems should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, Section 131(d) of Title 23, United States Code provides for agreement between the Secretary of Transportation and the several States to determine the size, lighting, and spacing of signs, displays, and devices, consistent with customary use, which may be erected and maintained within 660 feet of the nearest edge of the right-of-way within areas adjacent to the Interstate and Primary Systems which are zoned industrial or commercial under authority of State law or in unzoned commercial or industrial areas, which areas are also to be determined by agreement; and

WHEREAS, the purpose of said agreement is to promote the reasonable, orderly, and effective display of outdoor advertising while remaining consistent with the national policy to protect the public investment in the Interstate and Primary highways, to promote the safety and recreational value of public travel and to preserve natural beauty; and

WHEREAS, Section 40-2401 A, Idaho Code accepts the provisions and benefits of any act of Congress heretofore enacted having for its purpose the control of outdoor advertising; and

WHEREAS, Section 40-2404, Idaho Code authorizes the Idaho Board of Highway Directors to enter into agreement with the United States government on all things necessary to fully carry out the cooperation contemplated and provided for by the said acts; and

WHEREAS, the State of Idaho elects to implement and carry out the provisions of Section 131 of Title 23, United States Code, and the national policy in order to remain eligible to receive the full amount of all Federal-aid highway funds to be apportioned to such State on or after January 1, 1968, under Section 104 of Title 23, United States Code; and

WHEREAS, Section 40-2833, Idaho Code authorizes the Idaho Department of Highways to prescribe and enforce regulations for the erection and maintenance of advertising displays consistent with the national policy set forth in Section 131 of Title 23, United States Code.

NOW THEREFORE, the parties hereto do mutually agree as follows:

I. DEFINITIONS

- A. The term "Act" means Section 131 of Title 23, United States Code (1965) commonly referred to as Title I of the Highway Beautification Act of 1965.
- B. Commercial, Business or Industrial Zone means those areas zoned for commercial, business or industrial use by State or local law, regulation, or ordinance.
- C. Unzoned Commercial, Business or Industrial Areas
1. Within the control zone of regulation described by Section 40-2828 of the Idaho Code, an unzoned commercial, business, or industrial area shall mean the land occupied by the regularly used building, parking lot, storage or processing area of a commercial, business, or industrial activity, and that land within 600 feet thereof. The unzoned land shall not include:
 - (a) Land on the opposite side of an Interstate or Primary Freeway Highway from an unzoned commercial, business, or industrial area, as defined above.
 - (b) Land predominantly used for residential purposes.
 - (c) Land Zoned by State or local law, regulation, or ordinance.
 - (d) Land on the opposite side of a non-freeway Primary Highway which is deemed scenic by the Department of Highways.

2. Commercial, business, or industrial activities, for the purpose of this definition, shall mean those activities permitted only in commercial, business, or industrial zones, respectively, by the nearest zoning authority within the State, wherein commercial, business, or industrial zones are defined, except that none of the following shall be considered commercial, business, or industrial activities:
 - (a) Outdoor advertising displays.
 - (b) Forests, farms, and ranches.
 - (c) Transient or temporary activities not permanent in nature.
 - (d) Activities not visible from the main traveled way.
 - (e) Activities more than 660 feet from the nearest edge of the normal highway right of way line.
 - (f) Activities conducted in buildings, principally used as residences.
 - (g) Railroad track and minor sidings.
3. Should any commercial, business, or industrial activity, which has been used in defining or delineating an unzoned area, cease to operate, the unzoned area may be redefined or redelineated based on the remaining activities. Any advertising displays located within the former unzoned area but located outside the unzoned area, based on its new dimensions, shall become non-conforming.

D. "Advertising structure" refers to a structure of any kind or character erected or maintained for outdoor advertising purposes, any part of the advertising or informative contents of which is visible from any place on the traveled way of the Interstate or Primary System, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary and neon or plastic illuminated signs, for advertising purposes.

"Advertising structure" does not include:

- (a) Official notices issued by any court or public body or officer.
- (b) Notices posted by any public officer in performance of a public duty or by any person in giving legal notice.
- (c) Directional, warning or information structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures.
- (d) An official or public structure erected near a city or county, which contains the name of such city or county, provided the same is maintained wholly at public expense.

E. "Sign" refers to any card, cloth, paper, metal, painted, wooden, neon or plastic illuminated sign of any character

placed for outdoor advertising purposes, on or to the ground or any tree, wall, bush, rock, fence, building, structure or thing, either privately or publicly owned, other than an advertising structure.

"Sign" does not include:

1. Official notices issued by any court or public body or officer.
2. Notices posted by any public officer in performance of a public duty or by any person in giving any legal notice.
3. Directional, warning or information signs or structures required by or authorized by law.

F. "Advertising display" refers to advertising structures and to signs.

G. Erect means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

H. Visible means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.

I. Traveled way means the portion of a roadway for the movement of vehicles, exclusive of shoulders.

II. SCOPE OF AGREEMENT

All zoned and unzoned commercial and industrial areas within 660 feet of the nearest edge of the right-of-way of all portions of the Interstate and Primary System within the

State of Idaho in which outdoor advertising displays, any part of the advertising or informative contents of which may be visible from the main traveled way of said system.

III. STATE CONTROL

The State hereby agrees that, in all areas within the scope of this agreement, the State shall effectively control or cause to be controlled, the erection and maintenance of outdoor advertising displays erected subsequent to the effective date of the State's regulations to carry out this agreement other than those advertising the sale or lease of the property on which they are located, or activities conducted thereon, in accordance with the following criteria:

A. In zoned and unzoned commercial and industrial areas, the criteria set forth below shall apply to advertising displays erected subsequent to the effective date of the State's regulations to carry out this agreement.

B. Size of Signs

Within zoned and unzoned commercial, business, or industrial areas, as defined in Section I above, and pursuant to the directive of Section 40-2833 of the Idaho Code, the Department rules that no advertising display shall exceed the following limits:

1. (a) Maximum area - 1000 sq. ft.
- (b) Maximum height - 30 ft.
- (c) Maximum length - 50 ft.

2. All dimensions include border, trim, cutouts, and extensions, but exclude decorative bases and supports.

C. Spacing of Advertising Displays

Within zoned and unzoned commercial, business, or industrial areas, as defined in Section I above and pursuant to directive of Section 40-2833 of the Idaho Code, the following spacing regulations shall apply:

1. Interstate, Primary Freeway, and Primary highways

- (a) Advertising displays may not be located in such a manner as to obscure, or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic.

- (b) Advertising displays may not be located within 500 feet of any of the following which are adjacent to the highway:

- (1) Public parks
- (2) Public forests
- (3) Public playgrounds
- (4) Scenic areas designated as such by the Department or other State agencies having and exercising such authority.

2. Interstate and Primary Freeway highways

- (a) Spacing between advertising displays along each side of the highway shall be a minimum of 500 feet.

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"(b) No advertising display shall be erected or maintained within 1,000 feet of an interchange or rest area unless there is an intervening building or structure in which case an advertising display may be placed up to or on the roof of the intervening building. The minimum spacing between displays as set forth herein for Interstate and primary freeway highways shall govern the actual location of any sign display permitted within this zone.

"No advertising display of any kind, except 'on-premise' signs shall be permitted along any Interstate or primary freeway highways within the actual 'Interchange area.' 'Interchange area' is defined as commencing or ending at the beginning or ending of pavement widening at the exit or entrance to the main traveled way of the Interstate or primary freeway."

- (c) Official and "On Premise" signs as defined in Subsections (1), (2), and (3), of Section 40-2828 of the Idaho Code shall not be counted nor shall measurements be made from them for purposes of determining compliance with the 500 foot requirement.

3. Primary highways

- (a) The location of advertising displays shall conform to the following minimum spacing criteria, to be applied to each side of the Primary highway.

- (1) Minimum spacing between signs shall be 100 feet within any urban area. Minimum spacing

between signs outside of any urban area shall be 100 feet provided the number of signs shall not exceed the length of the area measured along the centerline of the highway divided by 250 feet.

- (2) Where intersections are greater than 500 feet apart, no off premise advertising display will be permitted within 100 feet from the right of way line of the intersecting road unless buildings or structures control cross vision; then, advertising displays may be permitted up to and on top of the intervening structures.
- (3) When intersections are 500 feet or less apart, off premise advertising displays will be permitted to within 50 feet from the right of way line of the intersecting road; however, all advertising displays between 50 feet and 100 feet from the right of way line of the intersecting road must have the lower extremities of the advertising display (not counting posts) not less than 14 feet above the traveled way of the roads affected by the intersection for visibility under the advertising displays by the road users. Advertising displays may be permitted within 100 feet

of the intersecting road's right of way when buildings or structures control cross vision.

(b) Explanatory note

- (1) Official and "On Premise" signs as defined in subsections (1), (2), and (3) of Section 40-2828 of the Idaho Code, shall not be counted nor shall measurements be made from them for purposes of determining compliance with the 100 foot requirement.
- (2) The minimum distance of 100 feet between advertising displays shall be measured along the nearest edge to the pavement between points directly opposite the advertising displays.
- (3) Alleys, undeveloped rights of way, private roads and driveways shall not be regarded as intersecting streets, roads, or highways.
- (4) Primary Freeway shall mean all full control of access Primary highways.

D. Outdoor Advertising Displays in Zoned and Unzoned Commercial, Business, or Industrial Areas on Primary Highways - Size and Spacing Regulation.

Outdoor advertising displays located within zoned and unzoned commercial, business, or industrial areas on Primary highways and erected prior to the effective date of

these rules and regulations are not subject to the size and spacing provisions of Section III. Such outdoor advertising displays may be maintained at their present locations as long as they are kept in good repair. Permits for such displays will be required as provided for in Idaho Code and in these rules and regulations. Such displays must conform to the lighting regulations set forth in Subsection E. below.

E. Lighting

Advertising displays may be illuminated subject to the following restrictions:

1. If visible from any Primary or Interstate highway, no advertising display may display any red or blinking intermittent light, likely to be mistaken for a warning or danger signal.
2. Advertising displays which are not effectively shielded as to prevent beams or rays of light from being directed at any portion of the traveled ways of the Interstate or Primary highway and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited.
3. No advertising display shall be so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal.

IV. INTERPRETATION

The provisions contained herein shall constitute the acceptable standards for effective control of advertising displays within the scope of this agreement.

Nothing contained herein shall be construed to abrogate or prohibit a municipality from exercising a greater degree of control of outdoor advertising than that required or contemplated by the Act or from adopting standards which are more restrictive in controlling outdoor advertising than the provisions of this agreement.

Standards and criteria contained in Section III shall apply to advertising displays erected subsequent to the effective date of the State's regulations to carry out this agreement. Existing advertising displays in zoned and unzoned commercial or industrial areas will be considered to be conforming to said standards and criteria and constitute effective control on the part of the State for the purpose of this agreement.

In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this agreement, signs, displays and devices whose size, lighting, and spacing, consistent with customary use is to be determined under this agreement, may be erected and maintained within 660 feet of the nearest edge of the right of way in areas adjacent to the Interstate and Primary Systems which are zoned industrial or commercial under authority of state law, or in unzoned commercial or industrial areas as may be determined by paragraph I C of this agreement. The State and

local political subdivisions thereof shall have full authority, under Title 40, Chapter 28, Title 31, Chapter 38 and Title 50, Chapter 12, of the Idaho Code, respectively, to zone areas for commercial or industrial purposes, and the acts of the State or local political subdivisions in this regard will be accepted for the purposes of this agreement. Whenever a bona fide State, County or local zoning authority has made a determination of customary use, such determination will be accepted in lieu of controls by agreement in the zoned commercial and industrial areas within the geographical jurisdiction of such authority. Nothing in this section shall apply to signs, displays and devices advertising the sale or lease of, or advertising activities conducted on, the property upon which they are located.

In the event the provisions of the Highway Beautification Act of 1965 are amended by subsequent action of Congress or the provisions of Idaho Code, Sections 40-2811 - 40-2838, are amended by subsequent action of the Idaho Legislature, the parties reserve the right to renegotiate this agreement or to modify it to conform with any amendment.

V. EFFECTIVE DATE

This agreement shall become effective when signed and executed on behalf of both the State and the United States of America.

IN WITNESS WHEREOF the State has caused this agreement to be duly executed in its behalf, and the Secretary of Transportation has likewise caused the same to be duly executed in his behalf, as of the dates specified below.

WITNESSES:

STATE OF IDAHO

Eva Taylor

BY

E. L. Mathes
E. L. Mathes
State Highway Engineer

(SEAL)

Date: 31 March 1971

UNITED STATES

Dolores Mason

BY

J. A. Janner

Carolyn H. Lynn

Date:

JUN 2 1971